

Planning Commission Date: February 23, 2005

Item No. **4.**

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: New Business

Report Prepared by: Troy Fujimoto

Public Hearing: Yes: ____ No: X

Notices Mailed On: N/A

Published On: N/A

Posted On: N/A

TITLE: UPDATE OF 750 E. CALAVERAS BOULEVARD

Proposal: A request by the Planning Commission for an update on the activity concerning 750 E. Calaveras Boulevard

Location: 750 E. Calaveras Boulevard

RECOMMENDATION: Note Receipt and File

Applicant: N/A

Property Owner: Sam and Judy Jung, 756 Anacapa Court, Milpitas, CA 95035

Previous Action(s): S-Zone Amendments, Use Permit, EIA's, Variances, General Plan Amendment, and Rezoning

Environmental Info: N/A

General Plan Designation: Industrial Park

Present Zoning: Industrial Park (MP-S), with an S-Zone overlay

Existing Land Use: Vacant commercial building

Agenda Sent To: N/A

Attachments: Notice to Abate Letter, dated January 18, 2005
Letter to Rosann Heglunc, dated February 1, 2005

PJ#N/A

BACKGROUND

In December 2003, the Planning Commission approved an application for demolition of an existing 7,000 square foot commercial building and construction of two new buildings. One is a 5,000 square foot restaurant, while the other is a 11,000 square feet, two-story professional office building.

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STATUS UPDATE

Since approval of the project, the applicant applied in May 2004 for a demolition permit to remove the building and clear the site. After two reviews, with the last City comments forwarded to the applicant in June 2004, the demolition permit still has not been issued. The applicant has still not responded City comments (a period of over 6 months).

Since Planning Commission approval, the City has periodically initiated talks with the applicant encouraging the demolition and clearing of the site. In addition, to ensure upkeep of the site, the City's Code Enforcement staff has sent three (3) notices to abate letters requiring the property owner to remedy various Neighborhood Beautification Ordinance (NBO) violations. The violations included maintenance of landscaping, usage of tarpaulins, and illegal outdoor storage. To date the property owner has complied with all City notices.

While the City cannot require a property owner to demolish buildings or structures, they must be kept in a condition that is in compliance with the NBO. After additional site visits it was determined that the building on the property is indeed in violation of the NBO.

Included in the Commission packet is a copy of the most recent Notice to Abate letter. The notice was sent out in January 2005 and identified what portions of the NBO that the site was in violation of, particularly, "with buildings and structures (and parts thereof) that are abandoned, boarded up, partially destroyed, have broken glass or windows secured with wood or other materials, visible from the public right-of-way". These violations are required to be corrected by February 22, 2005. As of printing of the staff report, the violations have not been corrected and the property owner is subject to fines from the City.



CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479 • www.ci.milpitas.ca.gov

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February 1, 2005

Ms. Rosann Hoglund
365 Spring Valley Lane
Milpitas, CA 95035

Dear Ms. Hoglund:

This letter is in response to your inquiry to the City Manager's Office regarding City actions relative to the Bollywood site (750 E. Calaveras Boulevard). In December of 2003, the property owner received approval to redevelop the property for construction of a restaurant and two level office building. The property owner proceeded to apply for a permit to demolish the existing building, but did not initiate the demolition work. Due to lack of activity for six months, the permit expired in June 2004. The City cannot require the property owner to demolish the building unless the building is unsafe. The Building Division has conducted another inspection and has determined that the building, albeit not well-maintained, is not unsafe as it has been adequately secured.

To improve the appearance of the vacant building, the City has sent a Notice to Abate letter to the property owner on January 18, 2005 in an attempt to address this dilapidated structure as per the Neighborhood Beautification Ordinance (NBO). The Notice to Abate will give the property owner 30 days to remedy the violations before fines are levied against the property owner.

In addition, the City's Code Enforcement staff has sent three (3) notice to abate letters requiring the applicant to remedy other NBO violations. These notices have gone out within the past year and were related to maintenance of landscaping, usage of tarpaulins on the building, and illegal outdoor storage. On each occasion the property owner has satisfactorily complied with City notices. Please feel free to contact Gloria Anaya at (408) 586-3075 after the 30 remedy period, if you are further interested in the property owner's compliance status.

Sincerely,

Tambri Heyden, AICP
Acting Planning, Neighborhood Services Director

cc: Gloria Anaya, Sr. Housing and Neighborhood Preservation Specialist
Charlie Lawson, Interim City Manager



City of Milpitas

455 E. Calaveras Blvd.
Milpitas, California 95035



January 18, 2005

CERTIFIED MAIL
APN# 8629079

Chu Yong Jung LLC
Attn: Sam Jung
756 Anacapa Court
Milpitas, CA 95035

COPY

**Subject: Notice to Abate - Neighborhood Beautification Ordinance,
 Title V, Chapter 500, Milpitas Municipal Code**

Dear Property Owners:

The City Council has adopted the Neighborhood Beautification Ordinance effective February 1, 2000, and the Neighborhood Preservation Division's responsibilities include responding to citizen complaints and enforcing this Ordinance.

Our Office continues to receive complaints regarding violations of this Ordinance at **750 E. Calaveras Blvd, Milpitas, CA 95035**, and in response, on January 14, 2004, staff inspected your property and observed that the structure continues to be partially destroyed (since the 2002 fire) boarded up, and abandoned which is within view of the public right of way. Having this condition in public view is in violation of the **Neighborhood Beautification Ordinance, Section V-500-2.01 (c) (1) buildings and structures.**

It is the responsibility of the property owner/occupant to abate (V-500-1.01) violations. A suggested method of abatement would be to demolish or repair the structure to an operable condition. **We must hereby notify you that you have thirty-one (31) calendar days from the date of this Notice to abate this condition (V-500-3.01). An inspection to verify compliance will be conducted on or after February 22, 2005.**

Please see the attached list of City resources available to assist you. If you cannot comply with this Notice by the due date because doing so will be an undue hardship, *and you are not acting as a landlord of rental property*, you may request an extension by stating your reason(s) in writing. Your request must be received within seven (7) calendar days of the date of this Notice, in this case by **January 25, 2005.**

We are confident that this violation will be abated as required. However, if the condition is not abated, the Ordinance provides that, the City may abate the violation and recover the costs of abatement from you and/or impose a fine of \$100. If you have any questions, please contact me at (408) 586-3075.

Sincerely,

Gloria Anaya
Sr. Housing & Neighborhood Preservation Specialist

cc: Troy

City of Milpitas

Attn: Neighborhood Preservation Division

455 E. Calaveras Blvd

Milpitas, Ca 95035

Notice to Abate- Extension request

Name _____

Address _____

Day phone number _____

Evening phone number _____

I received a Notice to Abate, dated _____, for a violation of **Neighborhood Beautification Ordinance, Section V-500-2.01 (c) (1) Buildings and structures**, of the Milpitas Municipal Code. I am requesting an extension of the compliance date because:

Property owner signature

Date



